

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	File No. EB-01-OR-254
New World Broadcasting Company, Inc.	)	
Licensee, Station KCLF(AM)	)	NAL/Acct. No. 200232620003
New Roads, Louisiana 70760	)	
	)	FRN 006-3876-25
	)	

**FORFEITURE ORDER**

**Adopted: April 18, 2002**

**Released: April 22, 2002**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order* ("Order"), we issue a monetary forfeiture in the amount of two thousand dollars (\$2,000), to New World Broadcasting Company, Inc. ("New World"), licensee of Station KCLF(AM), for willful violation of Sections 11.35(a) and 73.1400 of the Commission's Rules ("Rules").<sup>1</sup> The noted violations involve New World's failure to install operational Emergency Alert System ("EAS") equipment at KCLF(AM) and its failure to monitor and control the station's transmission system.

2. On November 27, 2001, the District Director of the Commission's New Orleans, Louisiana Field Office ("New Orleans Office") issued a *Notice of Apparent Liability for Forfeiture* ("NAL")<sup>2</sup> in the amount of eleven thousand dollars (\$11,000). New World filed a response on January 10, 2002.

**II. BACKGROUND**

3. On September 20, 2001, a Commission agent from the New Orleans Office conducted an inspection of Station KCLF(AM) in New Roads, Louisiana. During the inspection, the agent found that KCLF(AM) did not have operational EAS equipment installed and that station personnel were not monitoring and controlling the transmission system. Further, the station transmitter was being left on 24 hours a day in violation of KCLF(AM)'s authorization. On September 27, 2001, the New Orleans Office

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<sup>1</sup> 47 C.F.R. §§ 11.35(a) and 73.1400.

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 20023262003 (Enf. Bur., New Orleans Office, released November 27, 2001).

issued a Notice of Violation ("NOV") to New World for the aforementioned violations. On October 15, 2001, New World submitted a response to the NOV. In its response, New World did not dispute the violations. Rather, New World explained that the defective EAS equipment would be repaired or replaced, and that a remote control unit would be installed to monitor and control the transmission system. On November 27, 2001, the District Director of the New Orleans Office issued a *NAL* for the violations. On January 10, 2002, New World submitted a response to the *NAL*. In its response, New World acknowledges that, at the time of the inspection, the EAS system at the station was not functioning and that the transmitter was unattended and operating without a remote control or monitoring system. Nevertheless, New World requests cancellation or rescission of the forfeiture for other reasons. New World asserts that payment of the proposed forfeiture would pose a severe financial hardship. Further, New World submits that because the language of Section 73.1400(b) provides for unattended operation of transmitters, it is not clear that any remote control equipment is required or that New World violated the rule. New World does not dispute the EAS violation. Therefore, New World contends that the forfeiture amount attributable to the Section 73.1400 violation should be rescinded.

### III. DISCUSSION

4. The forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended ("Act"),<sup>3</sup> Section 1.80 of the Rules,<sup>4</sup> and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999). In examining New World's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>5</sup>

5. Section 73.1400 of the Rules provides that licensees of AM, FM, and TV stations are responsible for assuring that at all times the station operates within tolerances specified by applicable technical rules contained in Part 73 of the rules and in accordance with the terms of the station authorization. Section 73.1400 further provides that any method of complying with the applicable tolerances is permissible and lists some typical methods of transmission system operation. The New Orleans Office proposed a forfeiture against New World for violation of Section 73.1400 of the Rules because New World had not employed any method of transmission system operation to assure that it complied with the time of operation specified in the station authorization. In its response to the *NAL*, New World cites to Section 73.1400(b) of the Rules, which provides for unattended operation of transmitters, and questions whether any remote control equipment is required. Whether New World is required to have remote control equipment is irrelevant. On the day of the inspection, no method was being employed to maintain control over the transmitter at the operating position and the transmitter was operating 24 hours per day, in violation of the terms of the station license. This was clearly a violation of Section 73.1400 of the Rules; one which is not affected by Section 73.1400(b). Further, New World completely overlooks the language in Section 73.1400 which requires radio stations to operate in accordance with the terms of the station authorization.<sup>6</sup> We affirm the issuance of the forfeiture for

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<sup>3</sup> 47 U.S.C. § 503(b).

<sup>4</sup> 47 C.F.R. § 1.80.

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> This requirement was also addressed in paragraph 6 of the *NAL*.

violation of Section 73.1400 of the Rules. As noted above, New World does not challenge the EAS violation.

6. New World also claims that payment of the proposed forfeiture amount of \$11,000 would pose a severe financial hardship. In support of this contention, New World submitted copies of its 1998, 1999, and 2000 federal income tax returns. Upon review of the financial documentation provided by New World, we believe that reduction of the forfeiture amount to \$2,000 is appropriate.

#### IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,<sup>7</sup> New World Broadcasting Company, Inc. IS LIABLE FOR A MONETARY FORFEITURE in the amount of two thousand dollars (\$2,000) for violating Sections 11.35(a) and 73.1400(a) of the Rules.

8. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>8</sup> Payment shall be made by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200232620003, and FRN 006-3876-25. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>9</sup>

9. IT IS FURTHER ORDERED that, a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to New World Broadcasting Company, Inc. at P.O. Box 9, Parent Street, New Roads, Louisiana 70760 and to its counsel Bradford D. Carey, Esq. at Hardy, Carey, & Chautin, L.L.P., 110 Veterans Boulevard, Suite 300, Metairie, Louisiana 70005.

#### FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>8</sup> 47 U.S.C. § 504(a).

<sup>9</sup> See 47 C.F.R. § 1.1914.

